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Office of the Attorney General
State of Texas
March 13, 1992

DAN MORALES
ATTORNEY GENERAL

Ms. Chris G. Elizalde
Mineral Wells Independent School District
In Care of Walsh, Judge, Anderson, Underwood
& Schulze, P.C.
P. O. Box 2156
Austin, Texas 78768

OR92-99

Dear Ms. Elizalde:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15039.

The Mineral Wells Independent School District (the "school district"), which you represent, has received a request for copies of two memoranda. Specifically, the requestor seeks "copies of Mrs. Pierel's memo [of] 12-5-91" and "Miss Donahue's memo [of] 12-6-91." You seek to withhold the two documents under sections 3(a)(11) and 3(a)(14) of the Open Records Act.

You assert that the requested information is excepted from required public disclosure by section 3(a)(14) of the Open Records Act. Section 14(e) incorporates the requirements of the Family Educational Rights and Privacy Act (FERPA) into the Open Records Act and provides:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

V.T.C.S. art. 6252-17a, § 14(e). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "[E]ducation records" are defined as records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

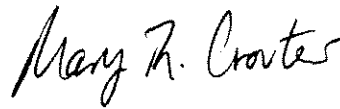
Id. § 1232g(a)(4)(A).

We have examined the documents submitted to us for review. The documents contain information "directly related" to students. We conclude, then, that they are "education records" as contemplated by FERPA. We do not understand any of FERPA's exceptions to the definition of "education records" or to the confidentiality requirement for "directory information" to apply here. *See* 20 U.S.C. § 1232g(a)(4)(B), (a)(5); Open Records Decision No. 431 (1985) (copy enclosed). Because release of any of the requested information would identify or tend to identify the students, we conclude that the two documents may be withheld in their entirety under sections 3(a)(14) and 14(e) of the Open Records Act. As we resolve this matter under sections 3(a)(14) and 14(e), we need not address the applicability of section 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR92-99.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/mc

Enclosed: Marked Documents
Open Records Decision No. 431

Ref.: ID# 15039

cc: Mr. Willie Clayton
c/o Mineral Wells Independent School District
102 Northwest 6th Avenue
Mineral Wells, Texas 76067